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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

GARY PIERCE - Chairman  
BOB STUMP  
SANDRA D. KENNEDY  
PAUL NEWMAN  
BRENDA BURNS

2011 JAN 12 P 1:51

AZ CORP COMMISSION  
DOCKET CONTROL

Arizona Corporation Commission

DOCKETED

JAN 12 2011

DOCKETED BY

CHARLES J. DAINS,  
  
COMPLAINANT,  
  
V.  
  
RIGBY WATER COMPANY,  
  
RESPONDENT.

DOCKET NO. W-01808A-09-0137

PROCEDURAL ORDER

**BY THE COMMISSION:**

On March 19, 2009, Charles J. Dains ("Complainant") filed with the Arizona Corporation Commission ("Commission") a Formal Complaint ("Complaint") against Rigby Water Company ("Rigby" or "Respondent"). The Complaint states that Rigby is in violation of A.A.C. R14-2-406 (regarding main extension agreements) and requests that the Commission grant Complainant relief in the amount of \$237,000, less any previously refunded amounts.

On April 13, 2009, Rigby filed an Answer to the Complaint and a Motion to Dismiss.

On September 20, 2010, a full public hearing was held before a duly authorized Administrative Law Judge of the Commission. Complainant, Rigby, and Staff appeared through counsel and presented testimony and evidence. At the conclusion of the hearing, a discussion was held regarding a briefing schedule in this matter, and Complainant was directed to file, as a late-filed exhibit, a copy of the Partnership Agreement for Terra Ranchette Estates.

On October 4, 2010, Complainant filed a Notice of Filing Partnership Agreement.

On October 19, 2010, Complainant filed a Motion to Admit Late-Filed Exhibits ("Motion").

On October 28, 2010, Rigby filed a response to the Motion stating that it had no objection to Complainant's request to admit the two late-filed exhibits and requesting that two additional documents disclosed by the Complainant also be admitted as late-filed exhibits.

1 On November 4, 2010, Complainant filed a reply stating that it did not object to the  
2 admission of the additional two late-filed exhibits requested by Rigby.

3 On November 15, 2010, by Procedural Order, the late-filed exhibits were admitted into  
4 evidence, and deadlines for submitting closing briefs in this matter were established.

5 On December 29, 2010, Complainant filed a Motion to Consolidate this docket with Docket  
6 No. W-01808A-10-0390.<sup>1</sup> Complainant stated that the amount and disposition of refunds due to the  
7 Dains Estate is a common issue in both dockets and that consolidation of the two cases will avoid  
8 inconsistent outcomes.

9 On January 7, 2011, Rigby filed a Response in Opposition to Motion to Consolidate.

10 To date, Staff has not filed a response to the Motion to Consolidate and it is appropriate that  
11 Staff file a response.

12 IT IS THEREFORE ORDERED that Staff shall file, on or before January 28, 2011, a  
13 response to Complainant's Motion to Consolidate Docket Nos. W-01808A-09-0137 and W-  
14 01808A-10-0390.

15 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 – Unauthorized  
16 Communications) continues to apply to this proceeding.

17 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance  
18 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona  
19 Supreme Court Rule 42). Representation before the Commission includes the obligation to appear at  
20 all hearings and procedural conferences, as well as all Open Meetings for which the matter is  
21 scheduled for discussion, unless counsel has previously been granted permission to withdraw by the  
22 Administrative Law Judge or the Commission.

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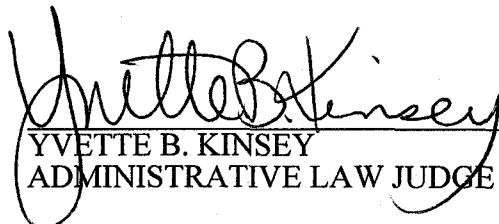
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27 <sup>1</sup> Docket No. W-01808A-10-0390 involves an application filed by Rigby with the Commission seeking to transfer its  
28 assets and to conditionally cancel its Certificate of Convenience and Necessity ("CC&N"). The application states that the  
City of Avondale ("Avondale") has filed a complaint in condemnation seeking to condemn the assets and operations of  
Rigby. Rigby desires to transfer its assets to Avondale and upon final order of condemnation to cancel its CC&N.

1 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,  
2 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at  
3 hearing.

4 DATED this 12<sup>th</sup> day of January, 2011.

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YVETTE B. KINSEY  
ADMINISTRATIVE LAW JUDGE

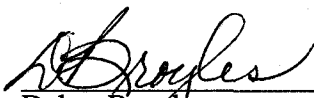
Copies of the foregoing mailed/delivered  
this 12<sup>th</sup> day of January, 2011 to:

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By:   
Debra Broyles  
Secretary to Yvette B. Kinsey